

**GRANT COUNTY  
LAND USE HEARING EXAMINER**

**IN THE MATTER OF**

P 14-6033  
Sand Castle Estates LLC

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**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND,  
DECISION AND  
CONDITIONS OF APPROVAL**

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on February 10, 2016, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and, Decision and Conditions of Approval as follows:

1. This is a Preliminary Subdivision application from Mike Bernsen, Sand Castle Estates, LLC, in order to create sixteen (16) new residential lots from two (2) existing parcels (totaling approximately 43.79 acres) in the Urban Residential 2 zoning district of Grant County. As proposed, Lots 1 through 15 will range in size from 12,500 square feet to 22,500 square feet. The intended use of each of the proposed lots is residential. Lot 16 will be approximately 29.74 acres in size, and may be used for residential development at a later time.
2. The proponent is Sand Castle Estates, LLC, 903 Eagle Road, Othello, WA 99344. The agent representative is Mike Bernsen, and the designated contact person is Robert H. Culp, Munson Engineers, Inc., PO Box 3796, 610 N. Chelan Ave., Wenatchee, WA 98807.
3. The subject area is located approximately 2.75 miles southwest of the intersection of Interstate 90 and State Highway 17 (Exit 179), and approximately 0.25 miles southwest of the intersection of Pelican Place NE, Pelican Drive SE, and Goodrich Road SE. It is also located approximately 0.08 miles northwest of the intersection of Viewmont Drive SE and Dune Lake Road SE, and in the NW quarter of Section 3, Township 18 North, Range 28 East, and in the NE quarter of Section 4, Township 18 North, Range 28 East, WM, Grant County, WA (Parcels #17-0070-002 & #17-0075-003).
4. The zoning of the subject property is Urban Residential 2.
5. The zoning for neighboring parcels is: to the north, Urban Residential 2; to the south, Rural Residential 2; to the east, Urban Residential 2; to the west, Shoreline of Moses Lake
6. The surrounding development consists primarily of single-family residences.
7. The Comprehensive Plan Land-Use designation is Low Density Residential.
8. A SEPA Mitigated Determination of Non-Significance (MDNS) was issued for this proposal on August 5, 2015, listing eight (8) mitigation measures. The appeal period for this MDNS expired on September 2, 2015. No appeal was filed.



9. Pursuant to and in compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of the Grant County Unified Development Code, a critical areas review of the project area was conducted as part of the application process for this proposal.
10. A portion of the subject area was found to be located in a section that has been designated as a possible Cultural Resource area. (Section 4, Township 18 North, Range 28 East, WM has been so designated.) According to WA State Department of Archaeology & Historic Preservation (WSDAHP) data, there are no known archaeological sites within approximately 3,500 feet of the subject parcels. There is one known archaeological site in the section located on the peninsula across Moses Lake from the subject area. As such, any known historical or culturally significant sites in the same section should be unaffected by the proposed subdivision. However, due to the existence of a known archaeological site in the same section, information about this project was sent to the WSDAHP and to the Colville Confederated Tribes (CCT) for review and comments. Also, permitting of any future development of the subject parcels (specifically development of the residential lots to be created by this proposal) that involve new ground-breaking construction activities will include a condition of approval to specifically protect the inadvertent finding of any yet-undiscovered buried archaeological sites or cultural artifacts.
11. In comments received from Guy Moura (Tribal Historic Preservation Officer for the Confederated Tribes of the Colville Reservation) on June 26, 2015, he indicates that information on Native American use in the project vicinity shows that prehistoric, ethnographic, historic, and traditional sites of value to the CCT are in the vicinity of the project area. Consequently, a Cultural Resource Survey of the subject area was required for this proposal.
12. Brett Lenz (of Columbia Geotechnical Associates Inc. of Redmond, WA) conducted a cultural resource field survey of the subject area in early July of 2015. A copy of Mr. Lenz's Cultural Resources Report (dated July 7, 2015) was received by the Planning Department on July 9, 2015, and a copy was forwarded to the CCT and to the WSDAHP for review and comment.
13. On July 20, 2015, the Planning Department received additional comments from Guy Moura in response to his review of Mr. Lenz's Report. Mr. Moura's response requested that several revisions be made to Mr. Lenz's report in order to correct several inconsistencies, and to adequately address the cultural setting of the project area. Consequently, a revised Cultural Resources Report was required and was received from Mr. Lenz on July 30, 2015. Copies were again forwarded to the CCT and to the WSDAHP.
14. According to Mr. Lenz's revised Report, although numerous recorded archaeological sites exist in the vicinity, none of these recorded sites are located within the proposed project area. As such, the proposed subdivision will not affect any recorded archaeological or historic properties. Likewise, this proposal should not affect any yet-undiscovered, buried resources. Even so, Mr. Lenz's Report recommends that in the event that ground-disturbing or construction activities result in the inadvertent discovery of buried archaeology, the development work should cease, and immediate contact should be made with the History/Archaeology Department of the Colville Tribe, the Cultural Resources Department of the Yakama Nation, the Wanapum Tribe, and the WSDAHP.



15. In response to his review of Mr. Lenz's revised Report, the Planning Department received an additional letter from Guy Moura on August 4, 2015. Mr. Moura agreed with the revised Report's determination that this project will have no effect on historic properties. Mr. Moura included recommended conditions that were included as a Mitigation Measure in the SEPA MDNS issued for this proposal on August 5, 2015.
16. A portion of the west property line of Parcel #17-0070-002 is a portion of the shoreline of Moses Lake, and thus contains a wetland area associated with the lake. Portions of the subject parcels were also found to contain other wetland areas. Consequently, a Wetland Delineation was required to be submitted for this proposal prior to initiation of the application process.
17. In August of 2013, a report entitled "Wetland Delineation Report Sand Castle Estates Development Project" was prepared by Anchor QEA of Seattle, WA. This Report includes, but covers an area much larger than, the area proposed for residential lots by the project at hand. Since the time of the Anchor QEA Report, a leaking irrigation main has been repaired, and drainage obstructions caused by beavers have been removed. Consequently, the site hydrology has changed significantly and areas that were previously wet are now dry.
18. As requested, an additional Wetland Delineation for the subject area prepared by Munson Engineers of Wenatchee, WA was submitted to the Planning Department on April 30, 2015, and was included in the application materials sent to agencies for review and comment. This additional Wetland Delineation used the original Anchor QEA Report as a compliance reference for two locations of emerging groundwater within the area proposed for new residential lots for this project. These two locations were surveyed by Munson Engineers, and the identified areas were included in the submitted application materials. The Anchor QEA Report refers to these two locations as Seep B and Seep C. The Anchor QEA Report made the determination that these seeps are upland features, and are not wetlands. Groundwater emerges from the hillside, flows downhill, and contributes to an area that has wetland features below the seeps.
19. The area for new residential lots as proposed by this project contains the two seeps where groundwater emerges. Channels from both of the seeps run underground and contribute to a wetland area (referred to as Wetland A), which is west of the proposed residential lots. At this time, water from the seeps will be collected by means of a French drain and piped outside the proposed residential area in a natural channel that has developed below the seeps. The water will then flow to Wetland A to the west. If and/or when property to the west is developed, mitigation for Wetland A, as appropriate, will occur in accordance with Grant County requirements.
20. In response to agency comments received, additional information and revised drawings were submitted by Munson Engineers to the Planning Department on July 8, 2015. This additional information as submitted depicts the locations of "Wetland A" and its required buffer.
21. The subject parcels were found to be not located in, nor to contain, any other Critical Areas as defined by Grant County Code.
22. A public Notice of Application & Public Hearing containing information about this project was published in the Columbia Basin Herald newspaper on May 19, 2015, was mailed to property owners within 300 feet of the subject area on May 13, 2015, and was posted on the subject



property by May 19, 2015 until the open record public hearing date. Information about this project was also sent to applicable agencies of jurisdiction for their review and comments on May 12, 2015. The public comment period ended on June 3, 2015.

23. A public Notice of Re-Scheduled Public Hearing for this project was published in the Columbia Basin Herald newspaper on July 17, 2015, in order to change the public hearing date from August 12, 2015 to September 9, 2015. The Notice of Re-Scheduled Public Hearing was also mailed to property owners within 300 feet of the subject area on July 14, 2015, and was sent to the applicant, the designated contact, to all applicable agencies of jurisdiction, and to all parties of record on July 14, 2015. The Notice of Re-Scheduled Public Hearing was posted on the subject property by Planning Department staff on July 15, 2015, and remained posted until the public hearing date.
24. A Public Notice containing information on the SEPA MDNS issued on August 5, 2015 was published in the Columbia Basin Herald newspaper on August 10, 2015. Copies of the MDNS were also sent to the applicant, designated contact, all applicable agencies of jurisdiction, and all parties of interest on August 5, 2015. The additional 14-day comment period ended on August 19, 2015.
25. On September 2, 2015, the hearing for this proposal was continued to an unspecified date, in order to allow for the applicants to demonstrate approval by the Moses Lake City Council of their request for the proposed subdivision to be served by the existing City's sewer main. Evidence of such approval was deemed necessary prior to this proposal being heard by the Hearing Examiner.
26. A public Notice of Postponed Public Hearing was published in the Columbia Basin Herald newspaper on September 4, 2015, in order to postpone until further notice the public hearing as had been scheduled for September 9, 2015. The Notice of Postponed Public Hearing was also mailed to property owners within 300 feet of the subject area on September 2, 2015, and was sent to the applicant, the designated contact, to all applicable agencies of jurisdiction, and to all parties of record on September 2, 2015. The Notice of Postponed Public Hearing was posted on the subject property by Planning Department staff on September 2, 2015, and remained posted until the public hearing date.
27. An additional public Notice of Re-Scheduled Public Hearing for this project was published in the Columbia Basin Herald newspaper on December 28, 2015, in order to schedule the public hearing for February 10, 2016. The second Notice of Re-Scheduled Public Hearing was also mailed to property owners within 300 feet of the subject area on December 18, 2015, and was sent to the applicant, designated contact, all applicable agencies of jurisdiction, and to all parties of record on December 17, 2015. The second Notice of Re-Scheduled Public Hearing was also posted on the subject property by Planning Department staff on December 22, 2015, and remained posted until the public hearing date.
28. The following agencies and County departments provided comments:
  - 28.1 Grand County Fire Marshal responded on May 12, 2015 and August 5, 2015
  - 28.2 Grant County Health District responded on June 2, 2015
  - 28.3 Grant County Public Works Department responded on June 4, 2015 and July 17, 2015
  - 28.4 City of Moses Lake, WA responded on June 3, 2015



- 28.5 U.S. Bureau of Reclamation responded on June 8, 2015 and August 17, 2015
- 28.6 Colville Confederated Tribes responded on June 26, 2015, July 20, 2015 and August 4, 2015

29. The following agencies were notified but did not respond:

- 28.1 Grant County Building Department
- 28.2 Grant County Assessor's Office
- 28.3 Grant County Emergency Management
- 28.4 Grant County Auditor's Office<sup>28</sup>
- 28.5 Grant County Treasurer's Office
- 28.6 Grant County Sheriff's Office
- 28.7 Grant County Fire District #5
- 28.8 Grant County P.U.D.
- 28.9 Grant County Noxious Weed Control Board
- 28.10 Moses Lake Irrigation & Rehabilitation District
- 28.11 WA Dept. of Fish & Wildlife (Ephrata)
- 28.12 WA State Department of Transportation
- 28.13 WA State Department of Health
- 28.14 WA State Department of Ecology (Olympia/Spokane)
- 28.15 Grant County International Airport
- 28.16 WA State Dept. of Archaeology & Historic Preservation

29. **Agency Comments:** The following is a summary of comments received:

29.1 **Grant County Fire Marshal:**

No adverse comments or concerns. All real development shall comply with all applicable local, state, and federal laws.

29.2 **Grant County Health District:**

Need letter from the City of Moses Lake stating the contract requirements for city sewer service are in compliance.  
Need letter from water system stating water connections are available for this development.

29.3 **Grant County Public Works Department [comments received on 06-04-15]:**

- 1. Provide a plat check fee of \$200.00 for Major Plats.
- 2. A maximum number of 36 parcels can be served by one access point before a secondary access is required; with the possibility of additional development to the west of this subdivision, that number may be reached or gone over. Submit an overall lot count that includes additional phases for the parcel to the west so Public Works can accurately comment on the subdivision; additional comments and requirements may be required for the upgrade of Stacy Drive. The existing and new road section of Stacy Drive shall be upgraded to Grant County Road Standard Appendix B Figure 3-4-1 Urban Access Streets.
- 3. Provide a complete engineered road plan set with centerline data and drainage facilities to be reviewed and commented on by Grant County Public Works.
- 4. An Approach Permit shall be obtained prior to a Building Permit for all lots.



5. Provide control monument locations and install them for all road intersections and centerline tangents.
6. Prior to Grant County Public Works signing the final plat, all required road construction and improvements for Stacy Drive shall be completed and accepted by Grant County Public Works.
7. Reflect the new road right-of-way for Stacy Drive as dedicated to Grant County on the plat map and in the notes.
8. With the division of the existing parcel, a new lot will be created to the west of the submitted subdivision, the remainder of the mother parcel. Reflect this as an additional lot for the plat.

**29.4 Grant County Public Works Department [additional comment received on 07-17-15]:**

(In regards to email received with additional information and revised set of drawings on 07-10-17 from Grant County Planning Department.) Public Works has no further comments beyond what was commented on 05-26-15.

**29.5 City of Moses Lake, WA:**

Thank you for the opportunity to comment on this plat within the City of Moses Lake's Urban Growth Area. We have the following comments:

1. The application packet states that the project will be served by City sewer; however, this project does not have permission to discharge to the City sewer. The City has concerns with the current agreement for existing homes in the Pelican Point area to discharge into the sewer system. Adding additional houses to the system will require an amendment to the agreement, and it is possible no additional load to the system will be allowed, due to the problems that are already occurring. The proponent needs to contact the private system and start the process to determine whether additional discharge to the sewer will be allowed. The County should not approve the plat without a guarantee that sewer service will be available.
2. If on-site septic systems are proposed, then per the Grant County Unified Development Code, the proponent needs to provide a refundable cash payment of up to 150% of the estimated cost necessary to connect to the public sewer system prior to the approval of the plat (GCC § 23.12.040), unless the City grants a waiver to this requirement. The lots may not be adequately sized for septic systems, especially given the likelihood of high groundwater in the area.
3. It appears that wetlands and ponds exist to the west of the project, and that the project might encroach on those wetlands/ponds and/or their buffers. The application packet did not contain sufficient information to determine whether the project would be outside of existing wetlands or buffers. There was some discussion about changes in hydrology for "Wetland A," but no map was provided, and it did not appear a new delineation had been done. Is there a wetland system to the west, and if so, is the buffer adequate?
4. Has the area been assessed for Northern Leopard Frogs, a state endangered species? They are known to live in other portions of the south end of Moses Lake.
5. Do these lots have adequate depth for reasonable development? On paper, the lots extend almost to the top of a 30-ft. bank. While the lots are 140 ft. or more deep, the slope takes up half to two-thirds or more of the lots. Are there slope stability issues with building on these lots?



6. A drain line to address the “emerging ground water” is apparently proposed at the base of the slope, which implies the houses will be built in the flat portion of the lot closest to the street. Some lots have a very small flat portion, and Lot 13 has none.
  7. We recommend that dead-end streets be avoided, to create a better circulation system for all modes of travel and to prevent the problems that arise from dead-end water mains. If a vehicle connection cannot be provided, a pedestrian walkway with an easement for extending the water main would be an acceptable alternative.
  8. Has Grant County adopted Appendix D of the International Fire Code (IFC), or some other provision that addresses the number of residences that can be allowed before a second access is required? Section D of the IFC limits single-family development to 30 units before a second access is required, unless residential fire sprinklers are installed. From the intersection of Goodrich and Pelican, there are already over 30 lots with only a single access.
- The above issues need to be resolved before the plat is approved by Grant County. Please feel free to contact me [Anne Henning, Senior Planner] or other staff to address these issues. I can be reached at (764)3747 or [ahenning@cityofmnl.com](mailto:ahenning@cityofmnl.com).

**29.6 U.S. Bureau of Reclamation [comments received on 06-08-15]:**

We appreciate the opportunity to review and comment on the subject proposal. This letter is in response to your request for comments, due June 3, 2015. We have reviewed the subject proposal as requested. This proposal is within the Moses Lake Irrigation District and does not involve any Columbia Basin Project facilities. Therefore, we have no comment at this time. Thank you for your assistance and cooperation. If you have any questions about this letter, please contact Mrs. Lee Dowers, Realty Specialist, at (509)754-0219.

**29.7 U.S. Bureau of Reclamation [comments received on 08-17-15]:**

Thank you for the opportunity to review and comment on the subject proposal. The Bureau of Reclamation has a flowage easement within Moses Lake to an elevation of 1,048 feet. Currently, the water elevation ranges from 1046.5 to 1047.3 feet during the irrigation season. Construction should be done in a manner that minimizes adverse effects to the operation, facilities, waters, lands, and resources of the Project. If you have any questions regarding these comments, please contact Ms. Gina Hoff, Water Quality Specialist, at (509)754-0254.

**29.8 Colville Confederated Tribes [comments received on 06-26-15]:**

We have received your letter requesting comment on the Sand Castle Estates LLC Preliminary Plat and SEPA Checklist. Please be advised that your proposed undertaking lies within the traditional territory of the Moses-Columbia Tribe, one of the twelve tribes that comprise the Confederated Tribes of the Colville Reservation (also known as the Colville Confederated Tribes or CCT), which is governed by the Colville Business Council (CBC). The CBC has delegated to the Tribal Historic Preservation Officer (THPO) the responsibility of representing the CCT with regard to cultural resources management issues throughout the traditional territories of all of the constituent tribes under Resolution 1996-29. This area includes parts of eastern Washington, northeastern Oregon, and the Palus (Palouse) territory in Idaho. We request that a cultural resources survey be conducted in this location, because information on Native American use in the project vicinity shows that prehistoric,



ethnographic, historic, and traditional sites of value to the CCT are in the vicinity of the project area.

We would like to highlight that, in conducting a cultural resources survey, those sponsoring and conducting the survey should carry out a reasonable and good faith effort [to] identify cultural resources. The level of effort put into these identification efforts is subject to tribal consultation. It is our policy that equal effort be put into the identification of *all* historic property sites, including standing structures, archaeological sites, and traditional cultural properties (TCPs). Agencies generally do a good job of ensuring that adequate efforts are undertaken to identify standing structures and archaeological sites, but they often fall short when it comes to identifying TCPs. Once you have completed the necessary survey and provided our office with the resulting survey report, we will then be able to review the document and make recommendations as to whether additional research is necessary and what additional actions your agency will need to take in order to properly account for and protect cultural resources potentially affected by this project.

Thank you for consulting with the Confederated Tribes of the Colville Reservation. Please note that these comments are based on information available to us at the time of the project review. We reserve the right to revise our comments as information becomes available.

If you have any questions or concerns, please contact Eric Oosahwee-Voss at (509)634-2690 or [eric.oosahwee-voss@colvilletribes.com](mailto:eric.oosahwee-voss@colvilletribes.com). If you wish to speak to me [Guy Moura, THPO], contact me at (509)634-2695.

29.9 **Colville Confederated Tribes [additional comments received on 07-20-15]:**

We have received a copy of the report, *A Cultural Resources Survey of the Bernsen Long Plat, Grant County, Washington*, which was undertaken in relation to the Sand Castle Estates LLC Preliminary Plat application. Please be advised that your proposed undertaking lies within the traditional territories of the Moses-Columbia Tribe, one of the twelve tribes that comprise the Confederated Tribes of the Colville Reservation (also known as the Colville Confederated Tribes or CCT), which is governed by the Colville Business Council (CBC). The CBC has delegated to the Tribal Historic Preservation Officer (THPO) the responsibility of representing the CCT with regards to cultural resources management issues throughout the traditional territories of all of the constituent tribes under Resolution 1996-29. This area includes parts of eastern Washington, northeastern Oregon, and the Palus (Palouse) territory in Idaho.

**The THPO cannot at this time concur with the recommendations contained in the survey report** as there are inconsistencies between the report and the plat application, and the report itself does not adequately address the cultural setting of the project area. Specifically:

- While the preliminary plat application describes the project location as being within Sections 3 and 4 of Township 18 North, Range 28 East, the survey report states that the project is within both this location *and* a location within Sections 3 and 4 of Township 14 North, Range 23 East. Please clarify the actual project location.
- The schematic diagram on page 14 of the report depicting shovel probe locations pertains only to Sections 3 and 4 of Township 18 North, Range 28 East. If Sections 3 and 4 of Township 14 North, Range 23 East are to be included within the project area, then we request that additional shovel probes be excavated within the footprint in this second location.



- While the “Cultural Setting” section of the report is comprehensive in its discussion of general regional archaeological chronologies, its specific treatment of the Moses Columbia people could be stronger, and we would request that additional information regarding Moses Columbia habitation within and use of the area be included.
- There is no discussion of Traditional Cultural Properties (TCPs) included in the report. The Moses Lake area is an extremely culturally rich environment, and there are numerous publicly available documents which provide information on TCPs in the vicinity of the project area(s).
- We would like to share an additional survey report with you regarding the short-term habitation sites at 45GR613 and 45GR614, southwest of the project area. This report has no geographic referent in WISAARD (Washington Information System for Architectural and Archaeological Records Data) and must be searched by title: *A Cultural Resource Survey Testing and Evaluation of the Proposed Dune Lake Development, Grant County, Washington* (Welch, Daugherty, and Moura 1990). We share it in light of your statement that nearby recorded sites consist primarily of low-density lithic scatters.

Once you have made the requested changes to the survey report, please resubmit the report to our office for review and comment.

Thank you for consulting with the Confederated Tribes of the Colville Reservation. Please note that these comments are based on information available to us at the time of the project review. We reserve the right to revise our comments as information becomes available.

If you have any questions or concerns, please contact Eric Oosahwee-Voss at (509)634-2690 or [eric.oosahwee-voss@colvilletribes.com](mailto:eric.oosahwee-voss@colvilletribes.com). If you wish to speak to me [Guy Moura, THPO], contact me at (509)634-2695.

**29.10 Colville Confederated Tribes [additional comments received on 08-04-15]:**

We received [the] revised report “A Cultural Resources Survey of the Bernsen Long Plat, Grant County, Washington.”

Please be advised that your proposed undertaking lies within the traditional territories of the Moses-Columbia Tribe, one of the twelve tribes that make up the Confederated Tribes of the Colville Reservation (also known as the Colville Confederated Tribes or CCT), which is governed by the Colville Business Council (CBC). The CBC has delegated to the Tribal Historic Preservation Officer (THPO) the responsibility of representing the CCT with regards to cultural resources management issues throughout the traditional territories of all of the constituent tribes under Resolution 1996-29.

We agree with the revised report and the recommendation that this project will have no effect on historic properties. As the project moves forward, we recommend the proponent proceeds with caution, and ask that the following conditions be observed: Condition 1: Inadvertent Discoveries - In the event that human remains, burials, funerary items, sacred objects, or objects of cultural patrimony are found during project implementation, the proponent or his authorized agent shall adhere to all of the requirements of RCW 68.50.645. They shall immediately cease any activity which may cause further disturbance and then take steps to protect the find from further damage or disruption. They shall then contact the County Coroner, who will contact the WA State Dept. of Archaeology and Historic Preservation (WSDAHP). They shall then contact the Confederated Tribes of the Colville Reservation Tribal Historic



Preservation Officer (THPO) at (509)634-2695 or the Tribal Archaeologist at (509)634-2691 as soon as possible to report the find. No further work shall be allowed on the project until there is an approved plan for managing or preserving the remains or items.

Condition 2: Post-Review Discoveries - In the event that prehistoric artifacts (i.e., arrowheads, spear points, mortars, pestles, other ground stone tools, knives, scrapers, or flakes from the manufacture of tools, fire pits, peeled trees, etc.) or historic-period artifacts or features (i.e., fragments of old plates or ceramic vessels, weathered glass, dumps of old cans, cabins, root cellars, etc.) are found during project implementation, the proponent or his authorized agent shall cease work immediately within 200 feet of the find. Then they shall contact the WSDAHP to report the find. Then they shall contact the THPO at (509)634-2695 or the Tribal Archaeologist at (509)634-2691. No further work shall be allowed on the project until there is an approved plan for managing or preserving the artifacts or features.

Condition 3: Activities that have the potential to disturb cultural resources outside the specified project area should not proceed prior to a cultural resources review of potential adverse effects in the new area.

Thank you for consulting with the CCT. Please note that these comments are based on information available to us at the time of the project review. We reserve the right to revise our comments as information becomes available.

If you have any questions or concerns, please contact Eric Oosahwee-Voss at (509)634-2690 or [eric.oosahwee-voss@colvilletribes.com](mailto:eric.oosahwee-voss@colvilletribes.com). If you wish to speak to me [Guy Moura, THPO], contact me at (509)634-2695.

### 30. Public Comments:

- 30.1 Public comments in response to this proposal were received on May 21, 2015 from Korbi Ashton. Ms. Ashton resides at 496 Viewmont Drive SE (Parcel #12-0950-312), located immediately east of the subject parcels for the proposed subdivision. Ms. Ashton expressed concerns regarding the effect of the proposed development on wildlife, soil conditions, and water run-off.
- 30.2 Public comments in opposition to this proposal were also received from Tom & Kristy Wyman on May 26, 2015. Mr. & Mrs. Wyman reside at 8969 Goodrich Road SE (Parcel #12-0881-019), located immediately north of the proposed residential lots. The Wymans indicated concern in regards to possible impacts to existing wildlife and wetland areas.
- 30.3 Public comments in opposition to the proposed subdivision were also received on May 27, 2015 from Gary E. Males. Mr. Males is a property owner at 8932 Goodrich Road SE (Parcel #12-0881-018), which is located approximately 600 ft. northwest of the proposed residential lots. Mr. Wales stated his concern about impacts to wetlands and traffic.
- 30.4 Additional public comments in opposition to this proposal were received from Morgan Scott Fife on May 27, 2015. Mr. Fife lives at 408 Viewmont Drive SE (Parcel #12-0950-307), located immediately east of the proposed subdivision. Mr. Fife expressed concerns regarding this proposal's impact on safety, drainage, wetlands and wildlife, and traffic.



- 30.5 Public comments in opposition to this proposal were also received on June 3, 2015 from Ron & Colleen Roth. Mr. & Mrs. Roth reside at 8949 Goodrich Road SE (Parcel #12-0881-028), which is also located immediately north of the proposed residential lots. The Roths indicated their concerns in regards to this proposal's effect on wetlands, wildlife, traffic, and utilities.
- 30.6 On July 2, 2015, Planning Department staff also received a phone call from Frank Cardwell. Mr. Cardwell lives at 548 Viewmont Drive SE (Parcel #12-0950-315). Mr. Cardwell also expressed concerns about this proposal, and requested to become a Party of Record.
- 30.7 Public comments in response to the SEPA MDNS (issued on August 5, 2015) were received from Mike Nordin on August 13, 2015. Mr. Nordin resides at 480 Viewmont Drive SE (Parcel #12-0950-311), located immediately east of the proposed subdivision. Mr. Nordin stated his concerns about the proposed subdivision in regards to potential for erosion.
- 30.8 Public comments in response to the SEPA MDNS were also received on August 17, 2015, from Ed & Judy Allen. Mr. & Mrs. Allen reside at 426 Viewmont Drive SE (Parcel #12-0950-308), which is also located east of the proposed residential lots. The Allens also stated concerns about water run-off and drainage.
- 30.9 On August 18, 2015, additional public comments were received from Korbi Ashton in response to the SEPA MDNS. Ms. Ashton again expressed concern about the impact of the proposed subdivision on existing wetlands and wildlife.
- 30.10 Public comments in response to the SEPA MDNS were received also on August 18, 2015, from Frank & Gale Cardwell. The Cardwells live at 548 Viewmont Drive SE (Parcel #12-0950-315), which is also located immediately east of the proposed residential lots. The Cardwells stressed the importance of protecting the wetlands area and existing wildlife on proposed Lot 16 (on which residential development is not being proposed at this time).
31. When an agency is given the opportunity to comment on a project, and that agency declines to provide a comment, the Hearing Examiner interprets this to mean that the agency has no concerns regarding the project that may require additional study or mitigation measures.
32. This application was determined to be technically complete on May 11, 2015.
33. This proposal was processed as a Type III Quasi-Judicial Decision, in accordance with Chapter 25.04 "Permit Application Review Procedures" of the Grant County Unified Development Code.
34. Subject to the Conditions of Approval, this proposal complies with the applicable requirements of Chapter 22.04 "Subdivisions and Plats" of the Grant County Unified Development Code.
35. The subject parcels are located within the Urban Growth Area boundary of Moses Lake, WA.



36. The minimum allowed density in the Urban Residential 2 zoning district is one (1) dwelling unit per one (1) acre. The maximum allowed density in this zone is four (4) dwelling units per one (1) acre. The proposed long plat, as delineated in the submitted application materials, will comply with the density requirement of the Urban Residential 2 zoning district.
37. Based on the number of residential lots to be created, the Institute of Transportation Engineers "Trip Generation Manual" indicates that approximately 144 Average Vehicle Trips per day would be generated by the proposed subdivision. (9.57 average daily trips per detached family dwelling unit multiplied by 15 proposed residential dwelling units equals 143.55 Average Vehicle Trips.) As such, pursuant to Grant County Code § 23.12.100(c), a traffic impact study was required for this proposal.
38. The applicant has indicated that the proposed residential lots will be served water by the Pelican Point Water Association, and will be served by the City of Moses Lake sanitary sewer system.
39. Pursuant to GCC § 23.04.080(d), because the subject area for this proposal lies within 500 feet of lands zoned as Agriculture, the entire text of the "Right-to-Farm" Disclosure shall be recorded on the face of the plat. Condition of Approval #16(f)(i) has been included to ensure that this requirement is met.
40. Because the subject area for this proposal is located within the Airport Safety Overlay Zone of the Grant County International Airport (GCIA), information about this project was sent to the GCIA for review and comment. Also, pursuant to GCC § 23.04.645(n), an Avigation Easement will be required on the face of the plat. Condition of Approval #16(d) has been included to ensure that this requirement is met.
41. Pursuant to GCC § 23.12.040(e)(1), an acceptable conceptual redevelopment plan was required for this proposal. Such a plan was submitted to the Planning Department on July 8, 2015. The redevelopment plan, as submitted, appears to be in compliance with Grant County Code.
42. During review of this proposal by the Planning Department, it was noted that the plat drawings as originally submitted did not reflect the two subject parcels in their entirety. Planning Department staff contacted Robert Culp (Designated Contact) and requested a revised set of drawings that depict both parcels, and depict the "remainder" portion of the parcels (that area not used of the proposed residential lots) as a lot.
43. Planning Department staff conducted a site visit on May 19, 2015.
44. Information about this application was mailed to all applicable agencies of jurisdiction for their review and comments. Agency comments and/or requirements specific/applicable to this proposal have been included as Conditions of Approval.
45. Comments were received from several agencies that required immediate action and/or a response from the applicant and/or designated contact prior to the County issuing a SEPA Determination for this proposal. Specifically, Public Works requested a conceptual redevelopment plan, and that the remainder of the parent parcels be depicted as a lot on the plat. Also, the City of Moses Lake requested that the proponent determine whether (or not) additional discharge to the city sewer system would be allowed, and a depiction of the location



of "Wetland A" as described in the application materials. In response to these comments, Planning Department staff contacted both the applicant and the designated contact to inform them of the comments received. On June 4, 2015, Planning Department staff also provided them with copies of comments received that required a response on their part, and informed them that any issues contained in the agency comments needed to be resolved, and, as such, required a response from them, before a SEPA Determination could be issued and before this proposal could go to hearing.

46. After a coordinated effort between the applicant representative, the designated contact, the Public Works Department, the City of Moses Lake, and the Planning Department, additional information and a revised set of drawings for the proposed Preliminary Plat was submitted to the Planning Department on July 8, 2015 (as per the Planning Department's request on June 4, 2015). The additional information includes responses to the agency comments submitted to the Planning Department, and contains revised plans that include the subject parcels in their entirety, depiction of "Wetland A," and a conceptual redevelopment plan. The additional information and revised drawings, as submitted, reflect requirements deemed necessary by all agencies.
47. Comments in opposition to the proposed subdivision were received from several landowners in the neighboring area during the public comment period. In response to the concerns identified in these comments, Planning Department staff contacted Robert Culp (Designated Contact) and Mike Bernsen (Applicant Representative) to discuss said concerns, to provide them with copies of the comments received, and to better enable them to address the public concerns at the Grant County Hearing Examiner meeting.
48. Public comments received raised concerns in regards to this proposal's impact to wildlife, soil conditions, water run-off, wetland areas, traffic, and safety. In response to these concerns, the Planning Department took the following actions and/or made the following determinations:
  - a) As outlined above, the Planning Department conducted a critical areas review of the project area. The subject parcels were found to be not located in, nor to contain, any Priority Habitat or Species areas. As such, this proposal will have little (if any) impact on sensitive habitat, or on any species that are considered to be endangered, threatened, or sensitive by the WA Department of Fish & Wildlife (WDFW). It should be noted as well that the WDFW rendered no comments on this project during the specified comment period. Therefore, pursuant to GCC § 25.04.170(a)(4), it is presumed that the WDFW has no comments or specific requirements for this project, and that the proposed subdivision will have little or no significant impact on existing species or habitat.
  - b) The subject area was found to be not located in, nor to contain, any possible Geological Hazard Areas. Thus, completion of a Geotechnical Study of the proposed residential area was not required for this proposal. However, it is pertinent and should be noted herein that the Grant County Building Department will determine if any such study is necessary prior to approval of any future development of the proposed residential lots.
  - c) Pursuant to GCC § 23.12.080, all clearing and grading activities shall be conducted so as to minimize potential adverse effects on off-site properties, surface water quality,



and critical areas. Stormwater runoff from developments shall not adversely affect off-site properties, surface water quality and quantity, and/or critical areas as delineated in GCC § 24.08. Provisions shall be made to control the release of surface water runoff from the development both during and following construction. Clearing and grading, including drainage and erosion control measures, shall conform to the requirements of the WA State Dept. of Ecology Stormwater Management Manual for Eastern WA. All development shall ensure that soil erosion and sedimentation of drainageways will be controlled to prevent damage to adjoining properties, downstream drainage channels, and receiving waters. The SEPA MDNS issued for this proposal on August 5, 2015, included specific mitigation measures to ensure that the clearing, grading, and drainage standards of GCC § 23.12.080 are met.

- d) As outlined in the Critical Areas Review above, a Wetland Delineation was required for this proposal. Consequently, the landowner/applicant will be subject to and comply with recommendations and proposed mitigation measures contained in the additional Wetland Delineation submitted to the Planning Department by Munson Engineers on April 30, 2015. Future wetlands mitigation will occur, as necessary, in accordance with Grant County requirements.
  - e) This proposal was reviewed by the Grant County Public Works Department. Subject to the proposed Conditions of Approval, the proposed subdivision will meet all applicable requirements for roads. Thus, anticipated impacts to traffic and safety will be mitigated.
49. In response to comments received from Guy Moura (Tribal Historic Preservation Officer for the Confederated Tribes of the Colville Reservation), Planning Department staff contacted Robert Culp (Designated Contact) and Mike Bernsen (Applicant Representative), and sent them copies of Mr. Moura's comments. Both were informed that a Cultural Resource Survey of the subject site would be required for this project. Both were further informed that the Planning Department would not be able to complete the application process for this project until the required Survey had been conducted, and after a Survey Report/Inventory was submitted for staff review.
50. In response to concerns raised by the WA State Dept. of Ecology (DoE), an on-site meeting was held for this proposal on August 24, 2015. Present at this meeting were Mike Bernsen, Robert Culp, Jacob McCann (Wetland Specialist for Grant County) of the DoE, and Damien Hooper & Tyler Lawrence from the Grant County Planning Department. Based on visual observations and discussions on-site, a determination was made that the outflow channel of Seep C as defined in the application materials contains wetland characteristics. However, said outflow should no longer exist upon completion of the proposed French drain. If that is the case, then no additional action will be required. If wetland characteristics continue to be present at that location after the installation of the French drain, then mitigation shall occur (as an expansion of "Wetland A" to the west) within three years. These actions will satisfy concerns raised by and requirements of the DoE.
51. On August 28, 2015, a letter (dated August 25, 2015) from Munson Engineers was submitted to the Planning Department. In accordance with the on-site meeting of August 24, 2015, this letter included an advance copy of a submittal that will be made at the Public Hearing for this proposal. This letter summarizes the determinations made at the on-site meeting as outlined



above, and also indicates intent and agreement on behalf of the applicant to provide for mitigation, if appropriate, within three years.

52. On September 2, 2015, the public hearing for this proposal was continued because an agreement had not yet been reached with the Moses Lake City Council in regards to sewer service for the proposed subdivision. However, comments were received by the Planning Department on December 14, 2015 from Gary Harer, Municipal Services Director of the Moses Lake Public Works Department, confirming that at their meeting of December 7, 2015, the Moses Lake City Council approved a request from the applicant for the proposed subdivision to be served by the existing City's sanitary sewer system. Mr. Harer also provided a copy of pertinent excerpts from the minutes of the City Council meeting, and a copy of the agreement.
53. Those issues/concerns raised in comments received from the City of Moses Lake on June 3, 2015 have been addressed as follows:
  - a) As outlined above, on December 7, 2015, an agreement was reached with the Moses Lake City Council for the proposed subdivision to be served by the City sewer system.
  - b) On-site septic systems are not proposed.
  - c) The revised drawings submitted by Munson Engineers, Inc. (dated July 8, 2015) depict "Wetland A" and the adequate required buffer in their entirety on Lot 16, which is not being developed at this time. The proposed residential lots (Lots 1-15) are outside the existing wetlands and required buffers.
  - d) As outlined above, a Critical Areas review of the project area was conducted. The subject parcels were found to be not located in, nor to contain, any Priority Habitat or Species areas.
  - e) As outlined above, the subject area was found to be not located in, nor to contain, any possible Geotechnical Hazard areas.
  - f) Development is not necessarily restricted to flat portions of the proposed lots. The Grant County Building Department will consider and determine, on a case-by-case basis, if a Geotechnical Study is necessary prior to approval of future development of the proposed residential lots.
  - g) This project was reviewed by the Grant County Public Works Department. Subject to the proposed Conditions of Approval, the configuration of the proposed subdivision will meet all applicable County standards for roads.
  - h) Planning Department staff contacted and requested input from Bruce Gribble (Grant County Chief Deputy Fire Marshal). Grant County has not officially adopted Appendix D of the International Fire Code (IFC). In this particular instance, Mr. Gribble considers there to be 15 proposed residential lots with only a single access point from the intersection of Stacy Drive SE and Goodrich Road SE. However, pursuant to the IFC, Mr. Gribble did request that the radius of the temporary turnaround depicted at the south end of Stacy Drive SE be increased from 50 ft. to 96



ft. in order to provide an adequate turning radius for fire-fighting apparatus. As such, Condition of Approval #16(g) has been included to ensure that this requirement is met.

54. Based on the above review, comments, and analysis, and subject to the following proposed Conditions of Approval, the Hearing Examiner has determined that the requested proposal complies with the applicable Criteria of Approval.
55. The proposed subdivision does meet the applicable requirements of UDC Chapter 22.04 "Subdivisions and Plats."
  - 55.1 Grant County Code § 22.04.010 lists nine purposes, in addition to those purposes set forth in RCW 58.17.010, that are essential to the regulation of division of land within the unincorporated areas of Grant County. Said purposes have been reviewed by Planning Department staff. Based on our review of this proposal, and subject to the proposed Conditions of Approval, the Planning Department has determined that the requested subdivision conforms to and is consistent with the requirements, purpose, and intent of the Comprehensive Plan and the Unified Development Code.
  - 55.2 The proposed subdivision does serve the public use and interest.
    - 55.2.1 Based on our review of this project, the Planning Department has determined that public use and interest will not suffer any detrimental effects due to approval and/or the implementation of the proposed subdivision. This project has been planned, proposed, and will be conditioned in such a manner that will maintain public safety and welfare. Those concerns raised in public comments received have been or will be mitigated as appropriate. Approval of the proposed subdivision will enable the development of additional residential lots in order to meet an increase in need in the Moses Lake area.
  - 55.3 The proposed subdivision does comply with the Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
    - 55.3.1 As outlined above, the Planning Department has determined that this proposal conforms to and is consistent with the Comprehensive Plan and the Unified Development Code. Although a portion of the west property line of the subject parcels is shoreline of Moses Lake, the new residential lots to be created by the proposed subdivision are not within 200 feet of the shoreline of Moses Lake. The proposed new lots appear to be, in fact, approximately 950 feet away from the shoreline at their closest point. As such, subdivision of the subject parcels as proposed at this time will have no effect on any shorelines of Grant County, and the Grant County Shorelines Master Program is not applicable in this instance. A SEPA Mitigated Determination of Non-Significance (MDNS) was issued for this proposal on August 5, 2015.
  - 55.4 The proposed subdivision does comply with Health District requirements for sewage disposal and potable water supply.



- 54.4.1 The proposed residential lots will be served by the Pelican Point Water Association and by the City of Moses Lake sanitary sewer system. Information about the proposed subdivision was mailed to the Grant County Health District for their review and comments. Comments and/or requirements received from the Health District that are specific/applicable to this proposal were included as a Condition of Approval. Thus, the proposed plat will comply with Health District requirements.
- 55.5 The proposed subdivision does contain an accurate legal description of the lots being created, and the roads and easements therein.
- 55.5.1 Information about this application was also mailed to the Grant County Assessor's Office and to the Grant County Public Works Department for their review and comments. Review of proposed subdivisions by the Assessor's Office ensures that the legal descriptions of the proposed lots are accurate. Review of such proposals by the Public Works Department ensures that any roads and easements contained therein meet county standards and are described and depicted accurately in plat drawings. Comments and/or requirements specific/applicable to this proposal received from these agencies were also included as Conditions of Approval.
- 55.6 The proposed subdivision does comply with Grant County and, where applicable, all State Department of Transportation regulations pertaining to roads, utilities, drainage, access for emergency vehicles, and other infrastructure improvements.
- 55.6.1 This project was reviewed by the Grant County Public Works Department, and, subject to the proposed Conditions of Approval, meets all applicable County standards.
- 55.7 The proposed subdivision does comply with relevant city regulations pertaining to roads, utilities, drainage, access for emergency vehicles, and other infrastructure improvements for subdivisions within an urban growth area.
- 55.7.1 Pursuant to GCC § 22.04.220(a)(12), application materials for preliminary subdivisions shall be submitted to the relevant city if the proposed land division is within an Urban Growth Area. As such, information about this project was sent to the City of Moses Lake, WA for their review and comments. All issues/concerns raised in comments received from the City of Moses Lake have been satisfactorily addressed by the applicant. Thus, the proposed subdivision will comply with relevant city regulations.
- 55.8 The proposed subdivision does comply with all requirements of the United States Department of the Interior, the Department of Reclamation, and/or a recognized Irrigation District when the proposed preliminary subdivision is within the boundaries of an Irrigation District.
- 55.8.1 Information about the proposed subdivision was mailed to the U.S. Bureau of Reclamation for their review and comments. When any such proposal is within the boundaries of an Irrigation District, information about the proposal is also



mailed to the appropriate District for their review and comments. Specific/applicable comments and/or requirements that are received from these agencies are included as Conditions of Approval. Review of proposed subdivisions by these agencies ensures that said proposals are conditioned in such a way so as to comply with the requirements of the U.S. Department of the Interior, the U.S. Bureau of Reclamation (USBR), and/or the appropriate Irrigation District. In this particular instance, comments were received from the USBR on June 8, 2015 indicating that although this proposal is located within the Moses Lake Irrigation & Rehabilitation District (MLIRD), it does not involve any Columbia Basin Project facilities. Additional comments were also received from the USBR on August 17, 2015 in response to the issued SEPA MDNS. As such, Condition of Approval #11 was included to specifically reflect requirements contained in the additional comments. The MLIRD rendered no comments on this proposal during the specified comment periods. Therefore, pursuant to GCC § 25.04.170(a)(4), it is presumed that the MLIRD has no comments (or specific requirements) for this proposal.

- 55.9 The proposed subdivision does have written findings for adequate (A) Streets or roads, sidewalks, alleys, other public ways, transit stops, and other features that assure safe walking conditions; (B) Potable water supplies, sanitary wastes, and drainage ways (stormwater retention and detention); (C) Open spaces, parks and recreations, and playgrounds; (D) Schools and school grounds; (E) Landscaping, street trees, and lighting—if required.
- 55.9.1 Aspects of this proposal that were considered and reviewed for compliance with Grant County Code requirements/standards include streets and roads, access, water supply, sewage disposal, and drainage. Subject to the proposed Conditions of Approval, the proposed subdivision will adequately provide these services. Other development such as parks, playgrounds, and schools was not required as part of this proposal.
56. An open record public hearing after due legal notice was held on February 10, 2016.
57. The entire Planning Staff file was admitted into the record at the public hearing.
58. The Grant County Planning Department recommended approval of the requested permit, subject to the recommended conditions of approval.
59. Appearing and testifying on behalf of the applicant was Robert Culp. Mr. Culp testified that he was an agent of the applicant and property owner, and was authorized to appear and speak on their behalf at this hearing. Mr. Culp testified that all of the proposed Conditions of Approval were acceptable to the applicant and property owner. Mr. Culp testified that this project is essentially the same project that was approved years ago but whose approval expired. He testified that all of the lots would have an adequate building envelope for the construction of a single family residence and accessory structures, without the need for a variance. Mr. Culp submitted Exhibit 1 into the record which is the SEEP Plan for the project.



60. Testifying from the public were the following individuals:
- 60.1 Gail Cardwell. Gail Cardwell testified regarding concerns related to the wetland that she believes exists on the site. She disagreed with the indicated size of the wetland and believes it's much larger. She also stated concerns regarding the stability of the hillside and the need for a geotechnical report and advice.
  - 60.2 Korbi Aston. Ms. Aston is a photographer who lives in the area. She presented what was marked and admitted into the record as Exhibit 2 which are four pages containing 6 photographs of the subject area. Her concern is for the wildlife that frequents the property and believes that the wetland will be impacted by this project.
  - 60.3 Tom Keilman. Mr. Keilman has lived in the area for more than 25 years. He testified that from the bottom of the slope to the lake that it is fully vegetated and abundant with wildlife. His concerns also related to the wetland on the property. He also had concerns regarding the water system indicating that there were pressure issues already. He also indicated that there was a community park association for 2 private parks and was concerned that the residents of this project would be using their parks without paying for the cost of maintenance.
  - 60.4 Kristin Fife. Ms. Fife agreed with all of the other comments. She had specific concerns regarding the geotechnical stability of the hillside. She had concerns regarding the increased traffic and the safety impacts to children in the neighborhood. She also mentioned that there are many already approved lots that are still vacant.
  - 60.5 Ed Allen. Mr. Allen also agreed with all prior comments. His belief is that the wetland on the site is actually growing. Mr. Allen also testified regarding a drainage pipe that apparently drains water from the top of the hill out onto the applicant's property below.
61. Mr. Culp testified in rebuttal. He indicated that proposed lot 16, where the wetland is located, will not be developed as part of this project. He stated that the Pelican Point Water Association has indicated that they have available water for this project. He testified that the hillside has not been designated a critical area so no geotechnical report is required at this time.
62. Gail Cardwell and Judy Allen were allowed to provide sur-rebuttal testimony. Ms. Cardwell testified that the lot adjacent to her lot, when bulldozers were on the site, caused the land to shake. Ms. Allen testified as to soil displacement and the water draining onto the lot below.
63. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

## **II. CONCLUSIONS OF LAW**

- 1. The Hearing Examiner has been granted authority to render this decision.
- 2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.



3. As conditioned, the proposal does conform to the standards specified in Grant County Code Section 23.12.
4. As conditioned, the use will comply with all required performance standards as specified in Grant County Code 23.08.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

### III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Conditional Use Permit Application P14-6033 is hereby **APPROVED** subject to the following Conditions of Approval.

### IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The Applicant shall obtain all permits required by all federal, state and local agencies with jurisdiction.
3. The Applicant shall comply with all federal, state and local laws and regulations.
4. Construction shall proceed substantially as shown on the application materials on file with Grant County, except as modified by conditions below.
5. The landowner/applicant is responsible to determine if other permits and/or licenses will be required by other local, state, and federal agencies. The landowner/applicant shall acquire all such permits and/or licenses as required.
6. The landowner/applicant shall comply with all findings, recommendations, restrictions, and/or mitigation requirements contained in the *revised* report entitled "A Cultural Resources Survey of the Bernsen Long Plat, Grant County, Washington" as prepared by Brett R. Lentz of Columbia Geotechnical Associates Inc. of Redmond, WA (dated July 7, 2015 and received by the Planning Department on July 30, 2015), including, but not limited to:
  - a) In the event that ground-disturbing or other construction activities result in the inadvertent discovery of buried archaeology, the development work shall cease, and immediate contact shall be made with the History/Archaeology Department of the Colville Tribe, the Cultural Resources Department of the Yakima Nation, the Wanapum Tribe, and the Washington



State Department of Archaeology and Historic Preservation Office in Olympia.

7. The landowner/applicant shall comply with all requirements as deemed necessary by the Confederated Tribes of the Colville Reservation, including, but not limited to:
  - a) In the event that human remains, burials, funerary items, sacred objects, or objects of cultural patrimony are found during project implementation, the proponent or his authorized agent shall adhere to all of the requirements of RCW 68.50.645. They shall immediately cease any activity which may cause further disturbance and then take steps to protect the find from further damage or disruption. They shall then contact the County Coroner, who will contact the WA State Dept. of Archaeology and Historic Preservation (WSDAHP). They shall then contact the Confederated Tribes of the Colville Reservation Tribal Historic Preservation Officer (THPO) at (509)634-2695 or the Tribal Archaeologist at (509)634-2691 as soon as possible to report the find. No further work shall be allowed on the project until there is an approved plan for managing or preserving the remains or items.
  - b) In the event that prehistoric artifacts (i.e.: arrowheads, spear points, mortars, pestles, other ground stone tools, knives, scrapers, or flakes from the manufacture of tools, fire pits, peeled trees, etc.) or historic-period artifacts or features (i.e.: fragments of old plates or ceramic vessels, weathered glass, dumps of old cans, cabins, root cellars, etc.) are found during project implementation, the proponent or his authorized agent shall cease work immediately within 200 feet of the find. Then they shall contact the WSDAHP to report the find. Then they shall contact the THPO at (509)634-2695 or the Tribal Archaeologist at (509)634-2691. No further work shall be allowed on the project until there is an approved plan for managing or preserving the artifacts or features.
  - c) Activities that have the potential to disturb cultural resources outside the specified project area should not proceed prior to a cultural resources review of potential adverse effects in the new area.
8. No use shall be made of equipment or material which produces unreasonable vibrations, noise, dust, dirt, smoke, odor, glare, steam, electrical interference, excessive hazards, or pollution to the detriment of adjoining property during development enabled by approval of the proposed preliminary plat.
9. Storm water generated from impervious surfaces shall be controlled, and retained on-site pursuant to requirements of the Department of Ecology Eastern Washington Storm Water Manual. Silt fences and erosion controls shall be used during construction activities.
10. Dust emissions shall be controlled and abated during all construction activities using sprinklers, water trucks, and any other Best Management Practices as necessary.
11. Exterior lighting for all uses and signs shall be energy-efficient and shielded or recessed so that direct glare and reflections are contained within the boundaries of the subject parcels. Exterior lighting shall be directed downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. All lighting fixtures shall be appropriate in scale, intensity, and height to the use they are serving. Any lighting installed in parking areas shall be of direct cutoff design so that the source is not visible from adjacent property.



12. The landowner/applicant shall comply with all recommendations and proposed mitigation measures contained in the additional Wetland Delineation prepared by Munson Engineers of Wenatchee, WA (letter dated April 27, 2015) and submitted to the Planning Department on April 30, 2015, including, but not limited to:
  - a) Water from existing seeps will be collected by means of a French drain and piped outside the area of proposed residential lots via a natural channel to an existing wetland area to the west.
  - b) Upon development of the rest of the subject area, wetlands mitigation will occur in accordance with Grant County requirements.
13. The applicant shall comply with all requirements as deemed necessary by the Grant County Health District, including, but not limited to:
  - a) A letter from the City of Moses Lake will be required stating that the contract requirements for city sewer service are in compliance before the Health District will sign the final plat.
  - b) A letter from the Pelican Point Water System will be required stating that water connections are available for this development before the Health District will sign the final plat.
14. The applicant shall comply with all requirements as deemed necessary by the Grant County Public Works Department, including, but not limited to:
  - a) Provide a plat check fee of \$200.00 for Major Plats.
  - b) A maximum number of 36 parcels can be served by one access point before a secondary access is required. With the possibility of additional development to the west of this subdivision, that number may be reached or exceeded. An overall lot count shall be submitted to Public Works that includes additional phases for the parcel to the west, so that Public Works can accurately comment on the subdivision. Additional comments and requirements may be required for the upgrade of Stacy Drive.
  - c) The existing and new road section of Stacy Drive shall be upgraded to Grant County Road Standard for Urban Access Streets (Appendix B Figure 3-4-1).
  - d) Provide a complete engineered road plan set with centerline data and drainage facilities (for Stacy Drive) to the Public Works Department for review, comment, and approval prior to construction.
  - e) An Approach Permit shall be obtained prior to a Building Permit for all lots.
  - f) Provide control monument locations and install them for all road intersections and centerline tangents.
  - g) Prior to Grant County Public Works signing the final plat, all required road construction and improvements for Stacy Drive shall be completed and accepted by Public Works.



- h) Reflect the new road right-of-way for Stacy Drive as dedicated to Grant County on the plat map and in the notes.
  - i) With the division of the existing parcel, a new lot will be created to the west of the submitted Subdivision (the remainder of the mother parcel). Reflect this as an additional lot for the plat.
- 15. The applicant shall comply with all requirements as deemed necessary by the U.S. Bureau of Reclamation, including, but not limited to:
  - a) Construction should be done in a manner that minimizes adverse effects to the operation, facilities, waters, lands, and resources of the Columbia Basin Project.
- 16. The applicant shall comply with all requirements as deemed necessary by the Grant County Planning Department, including, but not limited to:
  - a) This proposal is subject to and shall comply with all requirements of GCC § 22.04, Article V “Final Subdivisions and Short Subdivisions.”
  - b) The applicant shall comply with all applicable requirements of GCC § 23.12.040 “General Development Standards in Urban Growth Areas.”
  - c) All development is subject to and shall comply with all requirements included in the SEPA Mitigated Determination of Non-Significance (MDNS) issued on August 5, 2015.
  - d) The subject parcel is located within the Airport Safety Overlay Zone of the Grant County International Airport (GCIA). Pursuant to GCC § 23.04.645(n), an “Avigation and Hazard Easement” in favor of the GCIA shall be included on the face of the plat.
  - e) The final plat drawings shall reflect requirements deemed necessary by the Grant County Public Works Department and the Grant County Planning Department, as so depicted in revised drawings (labeled as such) submitted to the Planning Department on behalf of the applicant on July 8, 2015
  - f) Please make the following corrections/additions to the mapping:
    - i. The subject area for this proposal lies within 500 feet of lands zoned by Grant County as Agriculture. Pursuant to GCC § 23.04.080(d), the entire text of the “Right-to-Farm” Disclosure shall be recorded on the face of the plat.
    - ii. In the Vicinity Map on Page 1 of 4, please depict the outside boundary of the plat in its entirety (both subject parcels).
    - iii. The required buffer for “Wetland A,” as depicted on the conceptual redevelopment plan, shall also be depicted on the face of the plat.
    - iv. Please change “Stacey Drive” to “Stacy Drive” (three occurrences).
    - v. On the mapping on Page 1 of 4, please correct the minor misspelling of “Development” in the “Dune Lakes Planned Development” label.
    - vi. In the Auditor’s Certificate on Page 1 of 4, please change the year to “2016.”
    - vii. In the Parcel Information on Page 3 of 4, please change the Max. Potential DU’s to reflect the total overall acreage.



- viii. In the Covenant Terms on Page 3 of 4, please correct the minor misspelling of "interest" in Line 2 of Paragraph 3.1.
  - ix. In the Covenant Terms on Page 3 of 4, please change the phrase "improvements to Stacey Drive Viewcrest" to "improvements to Stacy Drive, Viewcrest" in Line 4 of Paragraph 3.2.
  - x. In the Covenant Terms on Page 3 of 4, please correct the minor misspelling of "enforcement" in Line 2 of Paragraph 3.4.
  - xi. Under the heading "Equipment and Procedure" on Page 4 of 4, please correct the minor misspellings of "performed" in Line 1 and in Line 3 of Paragraph 2 (two occurrences).
- g) Pursuant to the International Fire Code, the radius of the temporary turnaround depicted at the south end of Stacy Drive SE (on Page 1 of 4) shall be increased from 50 ft. to 96 ft. in order to provide an adequate turning radius for fire-fighting apparatus.

Dated this 29<sup>th</sup> day of February, 2016.

GRANT COUNTY HEARING EXAMINER



Andrew L. Kottkamp

**Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Grant County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available" or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) "...the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.**